REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

<table>
<thead>
<tr>
<th>Appointed by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major</td>
</tr>
</tbody>
</table>

(Appointing authority)

on 13 May 06 (Date) (Attach enclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

<table>
<thead>
<tr>
<th>The (investigation) board commenced at</th>
</tr>
</thead>
<tbody>
<tr>
<td>0800 (Time)</td>
</tr>
</tbody>
</table>

on 13 May 06 (If a formal board met for more than one session, check here. Indicate in an enclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See parts 3-2 and 5-8a, AR 15-6.)

<table>
<thead>
<tr>
<th>The (investigating officer) board finished gathering/hearing evidence at</th>
</tr>
</thead>
<tbody>
<tr>
<td>1200 (Time) on 13 May 06 (Date)</td>
</tr>
</tbody>
</table>

and completed findings and recommendations at 1600 (Time) on 15 May 06 (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

<table>
<thead>
<tr>
<th>A. COMPLETE IN ALL CASES</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
</tr>
</tbody>
</table>

1. Enclosures (para 3-15, AR 15-6)

   a. The letter of appointment or a summary of oral appointment data? X
   b. Copy of notice to respondent, if any? (See item 2, below) X
   c. Other correspondence with respondent or counsel, if any? X
   d. All other written communications to or from the appointing authority? X
   e. Privacy Act Statements (Certificate, if statement provided orally?) X
   f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered? (e.g., absence of material witnesses)? X
   g. Information as to sessions of a formal board not included on page 1 of this report? X
   h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board? X

FOOTNOTES: If exhibits all negative answers on an attached sheet.

DA FORM 1574, MAR 83 EDITION OF NOV 77 IS OBSOLETE. Page 1 of 4 pages USAPA V1.20
<table>
<thead>
<tr>
<th></th>
<th>Exhibits (para 3-16, AR 15-6)</th>
<th>YES</th>
<th>NO</th>
<th>NAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?</td>
<td>❌</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|   | B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6) |   |   |   |
|   | 3 | Was a quorum present when the board voted on findings and recommendations (para 4-1 and 5-2b, AR 15-6)? | ❌  |

|   | C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6) |   |   |   |
|   | 9 | Notice to respondents (para 5-5, AR 15-6): |   |   |   |
|   | a. Is the method and date of delivery to the respondent indicated on each letter of notification? |   |   |   |
|   | b. Was the date of delivery at least five working days prior to the first session of the board? |   |   |   |
|   | c. Does each letter of notification include — |   |   |   |
|   | (1) the date, hour, and place of the first session of the board concerning that respondent? |   |   |   |
|   | (2) the matter to be investigated, including specific allegations against the respondent, if any? |   |   |   |
|   | (3) the respondent's rights with regard to counsel? |   |   |   |
|   | (4) the name and address of each witness expected to be called by the recorder? |   |   |   |
|   | (5) the respondent's rights to present, present evidence, and call witnesses? |   |   |   |
|   | d. Was the respondent provided a copy of all unclassified documents in the case file? |   |   |   |
|   | e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them? |   |   |   |

|   | 10 | If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings): |   |   |   |
|   | a. Was he properly notified (para 5-5, AR 15-6)? |   |   |   |
|   | b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-6c, AR 15-6)? |   |   |   |

|   | 11 | Counsel (para 5-6, AR 15-6): |   |   |   |
|   | a. Was each respondent represented by counsel? |   |   |   |
|   | Name and business address of counsel: |   |   |   |
|   | (If counsel is a lawyer, check here □) |   |   |   |
|   | b. Was respondent's counsel present at all open sessions of the board relating to that respondent? |   |   |   |
|   | c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the record (para 5-6b, AR 15-6)? |   |   |   |

|   | 12 | If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6): |   |   |   |
|   | a. Was the challenge properly denied by the appropriate officer? |   |   |   |
|   | b. Did each member successfully challenged cease to participate in the proceedings? |   |   |   |

|   | 13 | Was the respondent given an opportunity to (para 5-8a, AR 15-6): |   |   |   |
|   | a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent? |   |   |   |
|   | b. Examine and object to the introduction of real and documentary evidence, including written statements? |   |   |   |
|   | c. Object to the testimony of witnesses and cross-examine witnesses other than his own? |   |   |   |
|   | d. Call witnesses and otherwise introduce evidence? |   |   |   |
|   | e. Testify as a witness? |   |   |   |
|   | f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)? |   |   |   |

|   | 14 | If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)? |   |   |   |

|   | 15 | Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)? |   |   |   |

**FOOTNOTES:**

- 1 Explains all negative answers on an attached sheet.
- 2 Use of the NO column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

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11743
SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds:

See attached memorandum.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) (board), recommends:

See attached memorandum.
SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

[Signatures]

(Member)

(Member)

(Member)

(SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in inclusion, the undersigned do(a) not concur in the findings and recommendations of the board. (In the inclusion, identify by number each finding and/or recommendation to which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclusion.)

[Signatures]

(Member)

(Member)

(SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the investigating officer (board) are (approved) (disapproved) (approved with following exceptional substitutions). If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach correspondence (or a summary, if oral) as a marked inclusion.

I approve the Findings and Recommendations and return this investigation to the Brigade Commander to take action as he deems appropriate.

[Signature]

Brigadier General, US Army
Assistant Division Commander (Maneuver)
Pages 7 through 8 redacted for the following reasons:

(b)(1), (b)(2)law, (b)(5), (b)(6)
(b)(1), (b)(5), (b)(6)
Section IV - Findings

The investigating officer, having carefully considered the evidence, finds:

1. At approximately 1000 on 12 May 06, 4th Platoon, Charlie Company was conducting a vehicle checkpoint on grid (5)(1) at grid (5)(1).

2. The on scene commander was 2nd Lt. (6)(6).

3. At 1005 Lt. (6)(6) ordered his Platoon Sergeant, Staff Sergeant (6)(6) to pull onto the westbound lane of MSR (6)(1) in order to establish a western blocking position.

4. Lt. (6)(6) pulled onto MSR (6)(1) 300 meters to the east of SSgt (6)(6) position in order to search civilian vehicles between his vehicle and SSgt (6)(6) vehicle.

5. Both eastbound and westbound traffic was stopped on MSR (6)(3) for this VCP.

6. Corporal (6)(6) vehicle had established a position on the eastbound lanes of MSR (6)(4).

7. Corporal (6)(6) vehicle was oriented west but he oriented his .50 caliber machine gun facing east.

8. Westbound traffic had stopped 800 meters to the east of Lt. (6)(6) position.

9. Approximately 20 cars were stopped at the position 800 meters to the east of Lt. (6)(6) position.

10. One minute after Lt. (6)(6) pulled his vehicle onto MSR (6)(1) he noticed a vehicle go past the 20 cars stopped 800 meters to the east.

11. The car was moving rapidly toward Lt. (6)(6) position.

12. Lt. (6)(6) platoon had not emplaced any traffic control devices as they had been in position only one minute.

13. The vehicle did not respond when LCpl (6)(6) and Cpl (6)(6) waived red flags.
Findings (cont.)

14. LCpl [redacted] and Cpl [redacted] continued to wave flags as the vehicle moved from 300 meters to within 150 meters of the Marine's position.

15. When the vehicle approached 150 meters, LCpl [redacted] fired a pen flare at the vehicle.

16. The vehicle did not respond to the pen flare.

17. When the vehicle came to within 100 meters of the Marines, Lt. [redacted] fired one 5.56 tracer round from his M-4 into the deck in front of the vehicle.

18. When the vehicle did not stop, Lt. [redacted] fired 3 shots at the passenger side wheels of the vehicle.

19. Both passenger side wheels were punctured by the rounds.

20. When the vehicle came to within 75 meters of the Marines, LCpl [redacted] fired one 5-8 round burst into the grill of the vehicle with a M-240G.

21. As the vehicle continued westbound, Cpl [redacted] engaged the vehicle with 14 rounds of .50 caliber machine gun fire as the vehicle came to within 50 meters of the Marines.

22. The vehicle came to a stop approximately 20 meters in front of the Marines.

23. The corpsman, HM3 [redacted] was sent to the vehicle to assess injuries.

24. They found one male civilian KIA and one female civilian, unhurt.

25. When asked, the civilian female stated that she and her husband were returning from their son’s funeral.

26. The civilian female, now identified as [redacted] said that she and her husband, [redacted] [redacted], were returning from their son’s funeral.
Findings (cont.)

27. [Redacted] stated that she did not know why her husband did not respond to the Marines actions and stop the car.

28. [Redacted] stated that her husband had bad eyesight.
Page 12 redacted for the following reason:
(b)(5)
From: Commanding Officer
To: Captain (G6), USMC, (G6)

Subj: INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING THE TASK FORCE 1/1, CHARLIE COMPANY ESCALATION OF FORCE INCIDENT ON 12 MAY 2006

Ref: (a) AR 15-6

1. This appoints you, per chapter III of the reference, to inquire into the facts and circumstances surrounding Charlie Company escalation of force (EOF) incident that occurred on 12 May 2006.

2. Investigate the cause of the EOF, resulting injuries and damages, and any fault, neglect, or responsibility therefor, and recommend appropriate administrative or disciplinary action if warranted. Report your findings of fact and recommendations in the proper format by 14 May 06, unless an extension of time is granted. If you have not previously done so, read chapter III of the reference in its entirety before beginning your investigation.

3. You may seek legal and procedural advice from Major (G6) 1-10 SJA, during the course of your investigation.
SWORN STATEMENT

For use of this form, see AR 190-48; the proper agency is OCCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 201; Title 5 USC Section 552a; E.O. 12037 dated November 22, 1973 (SSN)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may accurately
ROUTINE USES: Your social security number is used as an additional identifier means of identification to facilitate filing and
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: (b)(1)
2. DATE (YYYYMMDD): 20050513
3. TIMES: 1000
4. FILE NUMBER: 
5. LAST NAME, FIRST NAME, MIDDLE NAME: (b)(6)
6. SSN: 
7. GRADE/STATUS: O-1/active
9. I, (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH. THIS STATEMENT IS MADE TO SUPPLEMENT MY EARLIER SWORN STATEMENT TO LT (b)(6) ON 12 MAY 2006.

After the escalation of force incident, I questioned the passenger in the car, (b)(6) age 53. She stated that she and her husband, the deceased (b)(6), were returning from their son's funeral when they came upon the Marine checkpoint. (b)(6) stated that she did not know why her husband did not stop the vehicle before he was killed. She did state that (b)(6) had very bad vision and that this may have been the reason that he did not stop. We then issued (b)(6) claims bond.

10. EXHIBIT
11. INITIAL: (b)(6)
ON MAKING STATEMENT

PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF..." I TAKEN AT... THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

DA FORM 2823, DEC 1998
DA FORM 2823, JUN 72, IS OBSOLETE

usapa: v1.05

11752
VOLUNTARY SWORN STATEMENT

Date: 10/15/2006

I, Second Lieutenant (PRINT NAME, FIRST NAME, MI, LAST NAME), do hereby make the following statement free and voluntarily to:

First Lieutenant (PRINT NAME, FIRST NAME, MI, LAST NAME)

whom I know to be the Investigating Officer.

My current billet is: Platoon Commander

My current unit address is: [FULL UNIT ADDRESS]

My rotation date is _____________.

My duty phone number: _____________. (duty phone number)

At 1000 on 12 May 2006 I gave the order to my Platoon Sergeant to establish a snap vehicle check point (SVCP) EVO of grid (O1). This ASK is in (O1) in Iraq. I gave the order to my driver, Lcpl (O6), at 1005 to move on to (O1) to trap the vehicles between my platoon sergeant's vehicle and my own. I was in place 300m to the east of the western blocking position established by my plt. Sgt. I oriented east. I had my dis mounts do their 5m and 25m checks around the vehicle. While this was happening, Cpl (O6) was oriented east. His truck gunner, Cpl (O6) was oriented east. I was in the westbound lane.

As we established our position, traffic stopped 800m to our east. I created a large jam in the road numbering in excess of 20 vehicles. Before creating a large jam in the road number in excess of 20 vehicles. My Marines could establish trigger lines and warning signs on the road. A single vehicle, a gray, 4-door Audi, passed the traffic jam and approached my vehicle at a high rate of speed. The vehicle was closing the distance between the stopped traffic 800m to my east and myself very rapidly. As the car got closer, Lcpl (O6) my truck gunner, and Cpl (O6) began using...

Initials: (O6)
red flags. These flags are an early warning device for oncoming traffic used to
give civilians a warning to stop. The flags were moved from 300m east of our
position until 150m line where LCpl [016] shot a penflame at the vehicle. It
did not stop. At that point I exited my vehicle and presented my weapon to the
vehicle. It did not stop. At 100m I fired 1 tracer at the road in front of the
vehicle, then 3 more at the tires on the passenger side. Both tires were hit
and deflated. The vehicle continued toward me. At 75m LCpl [016] ordered LCpl
[016] to fire his M240B machine gun at the vehicle's engine. A 5-8 round
burst at the vehicle hit the hood. The vehicle continued toward us. At 50m
LCpl [016] engaged the vehicle with his M2 .50 caliber machine gun. He shot
19 rounds at the driver's compartment. The vehicle stopped 20m in front of my vehicle.

As soon as it stopped I had the company's fire corpsman, HMC [016]
approach the vehicle to search it and assess casualties. On scene the corpsman reported one civilian KIA and his wife, who was
not harmed. The vehicle had no suspicious contents. After the scene was secure I
called the COC and submitted my EOD report, requested IFI/AE assistance and
waited for further guidance.

I had my reinforced squad hold a tight cordon around the incident
site while the EOD stood up on scene. This occurred at 1830. By 1945 they
had taken possession of the civilian casualty, his widow and their vehicle. At
1300 we broke down the cordon and headed to [016] to link up with
the remainder of my platoon.
VOLUNTARY SWORN STATEMENT

Date: 12/05/2006

I, [Print Name], do hereby make the following statement:

My current billet is: Armory Custodian/Turret Gunner

My current unit address is: [Full Unit Address]

My rotation date is: 

My duty phone number: 

Around 1010, we set up in a snap VCP. I was in the turret of one of two vehicles on the eastern corridor. Approx. 800m vehicles had seen us and stopped. As the dismounts jumped out and did the 5 and 25m checks, I noticed a car moving toward our position at about 60 mph. After myself and Lcepl [D(G)] waved our flags to slow the vehicle down, it wasn't showing any signs of slowing down. When the vehicle was at 150m from our position, Lcepl [D(G)] shot up a pop up. After the pop up went off, and the car wasn't slowing down, I made the .50 cal condition 1 and Lt. [D(G)] jumped out of his vehicle. His vehicle was about 15m North East of the vehicle I was in. When the suspected VBIED vehicle was at 100m up with the M240G in his turret. When the car still wasn't slowing down.

Initials: [D(G)]
I opened up with the .50 cal, with 140ds until the car stopped. When the car stopped Lt. [redacted] signaled cease fire. When all firing stopped Doc [redacted] ran up to the car to assess the casualties. Then the high back moved up to the car to search and help with the casualties. Approximately 85 minutes my vehicle pushed East of the high back to provide security. We waited for the IEDs until 1230 when they arrived. Then at 1300 we pushed back to [redacted].

1205 2006
Pages 20 through 21 redacted for the following reasons:
(b)(1), (b)(2)Law, (b)(6)